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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,730	10/05/2006	Uwe Befurt	05-834	4321
	7590 03/09/201 BOEHNEN HULBER	EXAMINER		
300 S. WACKER DRIVE			LEONG, NATHAN T	
32ND FLOOR CHICAGO, IL 60606			ART UNIT	PAPER NUMBER
			1792	
			MAIL DATE	DELIVERY MODE
			03/09/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, PROM THE MAILING DATE OF THIS COMMUNICATION. - Established for mapty is evaluated to the provision of 30° FR1 1-180°, in no event however, may a reply be trinky filled. - If NO period for regly is specified above, the resistance statutory point of will apply and will expire SIX (8) MONTHS from the mating due of this communication. - Failur to review within the sid or carefulded privated from yell. It is placed to a provision of the provision of the provision of the scale of this communication. - Failur to review within the sid or several provision of the mating date of this communication. - Failur to review within the sid or several provision of the mating date of this communication. - Failur to review within the sid or several provision of the mating date of this communication. - Failur to review or within the side of the scale of this communication. - Failur to review within the side of the scale of		Application No.	Applicant(s)				
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- The MALING DATE of this communication appears on the cover sheet with the correspondence address - Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ½ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MALINING DATE OF THIS COMMUNICATION. Featments of term may be adultion under the provisions of XFCR 1.18(a), in row cents because may reply be time with the communication of the provision of XFCR 1.18(a), in row cents because may reply be time with the communication. If IN Operation of the provision of Claims 4) □ Claim(s) 1.18 is/are pending in the application. 4a) Of the above claim(s) is/are allowed. 5) □ Claim(s) 1.18 are subjected to by the Examiner. 7) □ Claim(s) is/are objected to. 8) □ Claim(s) 1.18 are subject to restriction and/or election requirement. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing shee(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The drawing(s) flied on is objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing shee(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The cast for declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) □ All b □ Some * □ □ None of: 1 □ Criffied copies of the priority documents have been received in Application No. 3 □ Copies of the certified copies of the priority documents have been received. 2 □	Oπice Action Summary	Examiner	Art Unit				
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1) Responsive to communication(s) filed on <u>05 October 2006.</u> 2a This action is FINAL. 2b This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) <u>1-18</u> is/are pending in the application. 4a) Of the above claim(s) <u>is/are</u> withdrawn from consideration. 5 Claim(s) <u>is/are</u> allowed. 6 Claim(s) <u>is/are</u> elected. 7) Claim(s) <u>is/are</u> objected to. 8 Claim(s) <u>1-18</u> are subject to restriction and/or election requirement. Application Papers 9 The specification is objected to by the Examiner. 10) The drawing(s) filed on <u>is/are</u> : a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1 Certified copies of the priority documents have been received. 2 Certified copies of the priority documents have been received in Application No 3 Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received.	A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any						
2a) This action is FINAL. 2b) This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4 Claim(s)	Status						
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DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-10, drawn to a paint.

Group II, claim(s) 1-18, drawn to method of using paint.

PCT: Lack of Unity

Posteriori

Lack of unity of invention may be may only become apparent "a posteriori," that is, after taking the prior art into consideration, in the case of independent claims to A + X and A + Y, unity of invention(i.e. species) is present a posteriori as A is common to both claims.

The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the special technical feature which is referred to Annex B of Appendix A1 of the MPEP(Administrative Instructions under the PCT, "Unity of Invention"). The express "special technical features" is defined as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art."(Rule 13.2).

Art Unit: 1792

Unity exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding claimed special technical features. In this case, the technical feature shared by each invention is a paint comprising a polymer dispersion with pigments, fillers, thickeners, dispersants and additives.

The question of unity of invention has been reconsidered retroactively by the examiner in view of the search performed; a review of Zhao et al US 2002/0082319 makes clear that the inventions of the groups I-II lack the same or corresponding special technical feature because the cited reference appears to demonstrate that the claimed technical feature does not define a contribution which each of the inventions, considered as a whole, makes over the prior art. Accordingly, the prior art of the record supports restriction of the claimed subject matter in to the groups as mentioned immediately above. Zhao teaches a preparation of aqueous dispersion, comprising fillers, pigments, polymers, and dispersants to form a paint ([0011], [0013], and [0038]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHAN T. LEONG whose telephone number is (571)270-5352. The examiner can normally be reached on Monday to Friday, 9:00am to 6:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571)272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NATHAN T LEONG/ Examiner, Art Unit 1792

/Timothy H Meeks/ Supervisory Patent Examiner, Art Unit 1792